THE HON'BLE SMT. JUSTICE T. MEENA KUMARI
AND
THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.21870 of 2007

Date 10.12.2007

Between:
M/s. Andhra Pradesh Beverages Corporation Ltd.,

……PETITIONER

AND

The Deputy Commissioner of Commercial Taxes,
Hyderabad and another.

……..RESPONDENTS

THE HON'BLE SMT. JUSTICE T. MEENA KUMARI
AND
THE HON'BLE Ms. JUSTICE G.ROHINI

WRIT PETITION No.21870 of 2007

ORDER: (per Smt. T.Meena Kumari,J)

The present writ petition has been filed questioning the impugned order dated 18.8.2007 passed by the Deputy Commissioner of Commercial Taxes, Abids Division, Nampally, Hyderabad, the 1st respondent herein whereunder the 1st respondent has revised the order of assessment for the year 2003-2004.

The brief facts of the case are that the petitioner is engaged in the business of selling Indian Made Foreign Liquor. According to the petitioner, he filed his monthly returns in Form A-2 as required under Rule 17 of the A.P.G.S.T. Rules, 1957 before the 2nd respondent disclosing the sale of IMFL and also paid the taxes legitimately due from him under the Act. He further states that as per G.O. Ms. No. 242, Revenue (Excise-II), dated 31.3.2001, he is entitled to collect 10% increased trade margin as special privilege fee and the same was also being paid to the respondents. He also stated to have filed the statutory audit statements in Form AR.I to AR IV as required under rule 17 (5A) of the A.P.G.S.T. Rules, 1957 claiming exemption from payment of tax on a turnover of Rs.309,50,29,695 representing the amount towards special privilege fee. While so, the Government issued G.O. Ms. No.243, dated 31.3.2001 granting exemption from payment of tax under the A.P.G.S.T. Act, 1957 of the amount which the petitioner collects as Special Privilege Fee. In the light of the aforesaid G.O., the petitioner claimed

exemption from payment of tax on a turnover of Rs. 309,50,29,695/-. The grievance of the petitioner is that though the 2nd respondent while passing the final assessment order on 16.3.2006 granted exemption from payment of the above amount, the 1st respondent through the impugned order dated 18.8.2007 has revised the said assessment order without even considering the objections filed by the petitioner. Hence, the present writ petition.

Learned counsel for the petitioner submits that the 1st respondent passed the impugned order without considering the objections filed by the petitioner for the proposed revision and without affording an opportunity of hearing to the petitioner.

In the circumstances, the writ petition is disposed of with a direction to the petitioner to appear before the 1st respondent on 24.12.2007 and submit his objections in respect of the revised assessment order together with all the documentary evidence, which he would like to rely on. Further, the petitioner's counsel shall ensure that the petitioner appears before the 1st respondent on that day.

The writ petition is accordingly disposed of. No costs.

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T. MEENA KUMARI,J

DATE: 10th December, 2007

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G. ROHINI,J

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